

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT L. MARTIN,

Defendant-Appellant.

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UNPUBLISHED

December 10, 1999

No. 215636

Wayne Circuit Court

Criminal Division

LC No. 97-003512

Before: Whitbeck, P.J., and Gribbs and White, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his sentence for probation violation following his plea-based conviction of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded guilty to possession with intent to deliver less than fifty grams of cocaine, and was sentenced to lifetime probation. As part of his sentence of probation, defendant was required to attend substance abuse counseling, complete a psychological evaluation, and refrain from the use or possession of controlled substances.

Defendant's probation was violated as a result of his testing positive for the use of marijuana on multiple occasions, his failure to complete a psychological evaluation, and his refusal to enter a halfway house for a period of ninety days. The court sentenced defendant to ten to twenty years in prison. In imposing sentence, the court noted that defendant had failed to abide by any of the conditions of probation, and that his prospects for rehabilitation were not good.

Defendant argues that his sentence is disproportionate. We disagree and affirm. The sentencing guidelines do not apply to probation violators, and are not to be considered when fashioning a sentence for probation violation. *People v Williams*, 223 Mich App 409, 412-413; 566 NW2d 649 (1997). The key test of the proportionality of a sentence is whether it reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). Defendant failed or refused to

comply with the terms of his lifetime probation. Defendant's actions indicated an unwillingness to conform his conduct to the requirements of the law, notwithstanding the fact that he was given multiple opportunities to do so. Defendant's minimum term of imprisonment, while undeniably severe, does not constitute an abuse of discretion under the circumstances.

Affirmed.

/s/ William C. Whitbeck

/s/ Roman S. Gibbs

/s/ Helene N. White